

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OKLAHOMA

RAJA'EE FATHIHAH,

Plaintiff,

v.

CHAD NEAL (d.b.a. Save Yourself Survival and Tactical Gun Range) and NICOLE MAYHORN NEAL (d.b.a. Save Yourself Survival and Tactical Gun Range),

Defendants.

No. 6:16-cv-00058-JHP

**DEFENDANTS' MOTION TO
DISMISS AND/OR FOR
SUMMARY JUDGMENT**

[Fed. R. Civ. P. 12, 56]

Defendants Chad Neal and Nicole Mayhorn Neal (“Defendants”), by and through undersigned counsel, hereby move this Court pursuant to Rules 12 and 56 of the Federal Rules of Civil Procedure for dismissal and/or summary judgment because there is no genuine issue of material fact and Defendants are entitled to judgment as a matter of law.

In this case, Plaintiff alleges that Defendants have a discriminatory practice, and pursuant to this practice, Defendants denied him access to the use and enjoyment of their “place of public accommodation” based on his religion. (*See* First Am. Compl. [Doc. No. 35]). Plaintiff asserts his discrimination claims under federal law (42 U.S.C. § 2000a) and state law (Okla. Stat. tit. 25, §§ 1401-02).

As set forth in the accompanying brief, Defendants are entitled to judgment as a matter of law for the following reasons: Defendants’ business is not a “place of public accommodation” under federal or state law; Defendants do not have a policy or practice of discrimination based on a prohibited category; Defendants have legitimate, safety-based reasons for prohibiting Plaintiff from using the gun range; Defendants have not engaged in any discriminatory practice prohibited by law; Plaintiff lacks standing to advance his claim arising under federal law; and Plaintiff has failed to exhaust his state statutory remedies, which is a jurisdictional prerequisite to advancing his state law claim in a court of law.

In support of this motion, Defendants rely upon the pleadings and papers of record, as well as their brief filed with this motion and the exhibits attached thereto.

WHEREFORE, Defendants respectfully request that this Court grant their motion and enter judgment in their favor on all claims.

Respectfully submitted,
AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise
Robert J. Muise, Esq.* (MI Bar No. P62849)
PO Box 131098
Ann Arbor, Michigan 48113
Tel: (734) 635-3756
Fax: (801) 760-3901
rmuise@americanfreedomlawcenter.org

David Yerushalmi, Esq.* (Ariz. Bar No. 009616;
DC Bar No. 978179; Cal. Bar No. 132011; NY Bar No. 4632568)
1901 Pennsylvania Avenue NW,
Suite 201
Washington, D.C. 20006
dyerushalmi@americanfreedomlawcenter.org
Tel: (646) 262-0500
Fax: (801) 760-3901

*Admitted *pro hac vice*

WOOD, PUHL & WOOD, P.L.L.C.

/s/ Scott B. Wood
Scott B. Wood, Esq. (OBA 12536)
2409 E. Skelly Dr., Suite 200
Tulsa, Oklahoma 74105
Tel: (918) 742-0808
Fax: (918) 742-0812

Attorneys for Defendants Chad Neal and Nicole Mayhorn Neal

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2017, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the court's electronic filing system. Parties may access this filing through the court's system. I further certify that a copy of the foregoing has been served by ordinary U.S. mail upon all parties for whom counsel has not yet entered an appearance electronically: None.

AMERICAN FREEDOM LAW CENTER

/s/Robert J. Muise
Robert J. Muise, Esq.